

Application No. 09/402,564
Response Dated February 15, 2006
Reply to FINAL Office Action of September 16, 2005

REMARKS

By this Response, no amendments to the claims or specification have been made. Claims 8 and 10 are pending. Claims 1-7 and 9 were previously cancelled.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oshlack et al (WO 96/14058).

Applicants hereafter address the rejections raised by the Examiner under the heading "Response to Argument."

The Examiner deals in the first two paragraphs of page 4 of the pending Final Office Action with Claim 8 while not explicitly referring to Claim 8.

Applicants maintain not only that nowhere in WO 96/14058 the need for obtaining spheroidal particles is actually indicated but also that, technically, the solution contemplated in WO 96/14058 for obtaining spheroidal particles is meaningless for the reasons indicated in the amendment filed on September 30, 2004.

WO 96/14058 does not disclose any technically viable method for obtaining spheroidal particles without a spheronization step.

On the contrary, instant Claim 8 defines a device proper for obtaining such particles directly after the exit of the extrusion die without the use of a spheronization step, the said device being neither disclosed nor rendered obvious by the prior art.

Thus, the rejection of Claim 8 is not founded.

Paragraphs 3 and 4 of page 4 of the action (the latter paragraph bridging pages 4 and 5) actually concern Claim 10.

Applicants integrally maintain their assertions set forth in the amendment filed on September 30, 2004.

Applicants did not contest disclosure by WO 96/14058 of specific temperatures. However, Applicants had shown that the prior art reference does not disclose a maturing step outside the extruder.

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Applicants assert that the expression “maturing” step means a step which “brings to maturity or completion” or which permits to “become fully developed or ripe” [(cf Webster’s New collegiate Dictionary (Copyright 1970 by G.C. Merriam Co.))]. Thus, the notion “maturing step” implies a duration which according to Claim 10 is longer than at least 30 minutes up to 150 hours.

As asserted in the above-identified amendment of September 30, 2004, the maturing step of the instant invention consists (see page 8, lines 32-36 of the specification)

“... in maintaining the mixture at a temperature in the range from 20°C to 70°C, preferably in the range from 35°C to 70°C, for 30 minutes to 150 hours, advantageously in a ventilated tray type oven”.

During this maturation step, whose duration is of at least 30 minutes and up to 150 hours, the mixture to be subsequently extruded remains in powder form, while as indicated by the Examiner, WO 96/14058 (cf. the two last lines of page 4 and the lines 1 and 2 of page 5 of the pending action) teaches

“heating the blend to a temperature
“to soften the mixture sufficiently
“to extrude the same ...

From that statement, the Examiner then deduces that it

“... is evidence that substances of
“different melting points can be
“used...

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which in fact has nothing to do with the maturing step.

Thus, the maturing and the extrusion steps in the instant invention are obviously distinct from one another and the alleged heating step which according to Examiner exists in WO 96/14058 in fact does not exist separately, heating and extrusion taking place at the same time.

It clearly appears that WO 96/14058 neither discloses nor renders obvious the maturation step according to the invention which surprisingly and unexpectedly leads to the advantages recited in Claim 10.

Thus the rejection of Claim 10 is not founded.

Applicants respectfully assert that the rejection of Claims 8 and 10 as set forth in the Final Office Action has been addressed and overcome. Applicants further respectfully assert that Claim 8 and Claim 10 are in condition for allowance and request that an early notice of allowance be issued.

Favorable reconsideration is respectfully requested in view of the foregoing remarks.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

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Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

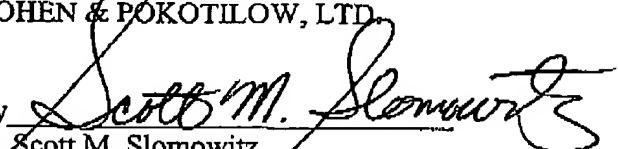
Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

February 15, 2006

Please charge or credit our
Account No. 03-0075 as necessary
to effect entry and/or ensure
consideration of this submission.

By


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